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1976 EDITION

SUPPLEMENT II

CONTAINING THE GENERAL AND PERMANENT LAWS OF THE UNITED STATES, ENACTED DURING THE 95TH CONGRESS

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JANUARY 4, 1977, TO JANUARY 14, 1979

VOLUME THREE

TITLE 45—RAILROADS

TO

TITLE 50—WAR AND NATIONAL DEFENSE

POPULAR NAMES, TABLES AND INDEX

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*This title has been enacted as law.
'This title has been enacted as law effective October 1, 1979.
†This title has been eliminated by the enactment of Title 10.
‡Subtitle IV of this title has been enacted as law.

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PREFACE

This second supplement to the 1976 edition of the United States Code has been prepared and published pursuant to section 285b of Title 2 of the Code. It contains the additions to and changes in the general and permanent laws of the United States enacted during the Ninety-fifth Congress. This supplement together with the 1976 edition establishes prima facie those laws in effect on January 14, 1979, except that Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, 44, and subtitle IV of 49, having been enacted into law, establish legal evidence of the law contained in those titles. Title 11 was enacted into law effective October 1, 1979, and is set out in this supplement in an appendix to Title 11.

This supplement continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. In addition, there is included in the Tables a Table of Internal References which consolidates all internal references contained in the individual "Section referred to in other sections" notes appearing in this supplement.

This supplement has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the Government Printing Office.

Thomas P O'Neill Jr. M.C.

Speaker of the House of Representatives

WASHINGTON, D.C., *January 14, 1979.*

PREFACE

This revised supplement to the 1970 edition of the United States Code has been prepared and published pursuant to section 285b of Title 2 of the Code. It contains the additions to and changes in the general and permanent laws of the United States enacted during the Ninety-fifth Congress. This supplement includes all laws enacted through the Public Laws-three laws in effect on January 14, 1979, except titles I, V, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, XXXIII, XXXIV, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX, XL, XLI, XLII, XLIII, XLIV, XLV, XLVI, XLVII, XLVIII, XLIX, L, LI, LII, LIII, LIV, LV, LVI, LVII, LVIII, LIX, LX, LXI, LXII, LXIII, LXIV, LXV, LXVI, LXVII, LXVIII, LXIX, LXX, LXXI, LXXII, LXXIII, LXXIV, LXXV, LXXVI, LXXVII, LXXVIII, LXXIX, LXXX, LXXXI, LXXXII, LXXXIII, LXXXIV, LXXXV, LXXXVI, LXXXVII, LXXXVIII, LXXXIX, XC, XCI, XCII, XCIII, XCIV, XCV, XCVI, XCVII, XCVIII, XCIX, C, CI, CII, CIII, CIV, CV, CVI, CVII, CVIII, CIX, CX, CXI, CXII, CXIII, CXIV, CXV, CXVI, CXVII, CXVIII, CXIX, CXX, CXXI, CXXII, CXXIII, CXXIV, CXXV, CXXVI, CXXVII, CXXVIII, CXXIX, CXXX, CXXXI, CXXXII, CXXXIII, CXXXIV, CXXXV, CXXXVI, CXXXVII, CXXXVIII, CXXXIX, CXL, CXLI, CXLII, CXLIII, CXLIV, CXLV, CXLVI, 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Any common carrier engaged in interstate commerce by railroad using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of sections 1 to 7 of this title, shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Secretary of Transportation to lodge with the proper United States attorneys information of any such violations as may come to his knowledge: *Provided*, That nothing in sections 1 to 7 of this title shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed twenty-five inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs.

(As amended Nov. 2, 1978, Pub. L. 95–574, § 7(a), 92 Stat. 2461.)

Amendments

1978—Pub. L. 95–574 provided that penalties under this section be assessed by the Secretary of Transportation.

§ 13. Penalty for using car not equipped as provided; hauling car for repairs where equipment becomes defective; liability for death or injury of employee; use of chains instead of drawbars

Any common carrier subject to sections 11 to 16 of this title using, hauling, or permitting to be used or hauled on its line, any car subject to the requirements of said sections not equipped as provided in said sections, shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered as provided in section 6 of this title: *Provided*, That where any car shall have been properly equipped, as provided in sections 1 to 16 of this title, and such equipment shall have become defective or insecure while such car was being used by such carrier upon its line of railroad, such car may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car can be repaired, without liability for the penalties imposed by this section or section 6 of this title, if such movement is necessary to make such repairs and such repairs cannot be made except at such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier, and nothing in this section shall be construed to relieve such carrier from liability in any remedial action for the death or injury of any railroad employee caused to such employee by reason of or in connection with the movement or hauling of such car with equipment which is defective or insecure or which is not maintained in accordance with the requirements of sections 1 to 16 of this title; and nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead of drawbars, in revenue trains or in association with other cars that are commercially used, unless such defective cars contain livestock or "perishable" freight.

(As amended Nov. 2, 1978, Pub. L. 95–574, § 7(b), 92 Stat. 2461.)

Amendments

1978—Pub. L. 95–574 provided that penalties under this section be assessed by the Secretary of Transportation.

§ 22. Inspection of locomotives and appurtenances; definitions

Codification

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 34. Penalty for violations by carrier; duty of United States attorney to sue therefor; director to give information

Any common carrier violating the provisions of sections 22 to 29 and 31 to 34 of this title relating to locomotives, their boilers, tenders, and

so forth, or any rule or regulation made under such provisions or any lawful order of any inspector shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be assessed by the Secretary of Transportation and recovered in a suit or suits to be brought by the United States attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such attorneys, subject to the direction of the Attorney General, to bring such suits upon duly verified information being lodged with them, respectively, of such violations having occurred; and it shall be the duty of the director of locomotive inspection to give information to the proper United States attorney of all violations coming to his knowledge.

(As amended Nov. 2, 1978, Pub. L. 95–574, § 7(c), 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95–574 provided that penalties under this section be assessed by the Secretary of Transportation.

CHAPTER 3—HOURS OF SERVICE OF EMPLOYEES

§ 61. Carriers subject to provisions of this chapter; definitions; time on duty

(a) This chapter shall apply to any common carrier engaged in interstate or foreign commerce by railroad.

(b) For the purposes of this chapter—

[See main edition for text of (1) to (3)]

(4) The term "designated terminal" means the home terminal and the away from home terminal for the assignment of a particular crew. Time on duty shall not include interim rest periods of four or more hours between designated terminals where the employee is prevented from reaching his or her designated terminal by act of God, track obstruction, casualty, derailment or major disabling equipment failure, which derailment or disabling equipment failure was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time such employee left the designated terminal, and which could not have been foreseen, and only then at a place where suitable facilities for food and lodging are available.

(As amended Nov. 2, 1978, Pub. L. 95–574, §§ 5, 6, 92 Stat. 2461.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–574, § 5, deleted description of interstate and foreign commerce and provision applying this chapter to officers, agents, and employees of common carriers.

Subsec. (b)(4). Pub. L. 95–574, § 6, added par. (4).

§ 63a. Signal system employees' hours of service

(a) Limitations

It shall be unlawful for any common carrier, its officers or agents, subject to this chapter—

[See main edition for text of (1) and (2)]

Whenever the time on duty of an individual is broken or interrupted by any period of time off duty of less than eight consecutive hours, such individual may be on duty for not more than twelve hours during a twenty-four-hour period, if such individual has had at least eight consecutive hours off duty immediately before reporting for duty, or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty immediately before so reporting. After an individual has been on duty for a total of twelve hours during a period of twenty-four hours as permitted by the foregoing sentence, or at the end of such twenty-four-hour period, whichever occurs first, such individual shall not be required or permitted to continue on duty or to go on duty until he has had at least eight consecutive hours off duty. For purposes of this subsection, a twenty-four-hour period shall begin when an individual reports for duty immediately after he has had at least eight consecutive hours off duty or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty.

[See main edition for text of (b)]

(c) Time on duty

For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when an individual is finally released from duty, except that—

(1) time spent in travel on return from a trouble call, whether directly to the individual's residence or by way of the individual's headquarters, shall be considered neither time on duty nor time off duty, except that up to sixty minutes of such time on return from the final trouble call of a period of continuous or broken service shall be considered time off duty;

(2) if, at the expiration of scheduled duty hours, an individual has not completed the trip from the final outlying worksite of the duty period to the individual's headquarters or from the final outlying worksite directly to the individual's residence, then the time spent in travel outside the scheduled duty hours which is required to complete the trip to such headquarters or directly to such residence, as the case may be, shall be considered neither time on duty nor time off duty;

(3) if an individual is released from duty at an outlying worksite prior to the end of such individual's scheduled duty hours in order to comply with this section, the period of time required for the trip from the outlying worksite to the individual's headquarters, or the period of time required for the trip from the outlying worksite direct to the individual's residence, as the case may be, shall be considered neither time on duty nor time off duty;

(4) all time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (1), (2), and (3) of this subsection, shall be considered time on duty; and

(5)(A) regularly scheduled meal periods and other release periods of thirty minutes or more up to sixty minutes shall be considered time off duty but shall not break an individ-

ual's continuity of service for purposes of this section, and (B) release periods of more than one hour shall be considered time off duty and shall break an individual's continuity of service for purposes of this section.

[See main edition for text of (d) to (f)]

(As amended Nov. 2, 1978, Pub. L. 95-574, § 4(a), (b), 92 Stat. 2459, 2460.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-574, § 4(a), added provision relating to twelve hour on duty maximum in any twenty-four hour duty period.

Subsec. (c). Pub. L. 95-574, § 4(b), added pars. (1) to (5).

EFFECTIVE DATE OF 1978 AMENDMENT; LIMITATION OF APPLICATION

Section 4(c) of Pub. L. 95-574 provided that: "The amendments made by this section [amending this section] shall be effective as of July 8, 1976, except that no action or conduct which occurred during the period beginning on such date and ending on the date of enactment of this Act [Nov. 2, 1978] and which was lawful under the Hours of Service Act [this chapter] as in effect on July 8, 1976, shall be deemed to be unlawful under such Act as amended by this Act [Pub. L. 95-574]."

§ 65. Establishment of eight hour day

REFERENCES IN TEXT

The Act of February 4, 1887, entitled "An Act to regulate commerce," referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 13, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

CHAPTER 5—GOVERNMENT-AIDED RAILROADS

§ 81. Union Pacific Railroad

The books, records, correspondence, and all other documents of the Union Pacific Railroad Company, shall at all times be open to inspection by the Secretary of the Treasury, or such persons as he may delegate for that purpose. No dividend shall be made by said company but from the actual net earnings thereof; and no new stock shall be issued or mortgages or pledges made on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing, or the renewals thereof. No director or officer of said road shall be interested, directly or indirectly, in any contract therewith except for his lawful compensation as such officer. Any director or officer who shall pay or declare, or aid in paying or declaring, any dividend, or creating any mortgage or pledge prohibited by this section, shall be punished by imprisonment not exceeding two years, and by fine not exceeding $5,000.

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 322(g), 92 Stat. 2679.)

AMENDMENTS

1978—Pub. L. 95-598 struck out sentence providing that the laws of the United States relating to bankruptcy proceedings were not to be applicable to the Union Pacific.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 8—RAILWAY LABOR

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 231, 351, 354, 355, 362, 401, 404, 431, 522, 565, 726, 771, 772, 774, 851, 853 of this title; title 11 section 205; title 11 App. section 1167; title 18 section 1951; title 26 section 3231; title 29 sections 152, 182, 302, 401, 402, 523, 630, 1002; title 42 section 2000e; title 49 sections 1382, 10722.

SUBCHAPTER I—GENERAL PROVISIONS

§ 151. Definitions; short title

CODIFICATION

The Interstate Commerce Act, referred to in par. first, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 156. Procedure in changing rates of pay, rules, and working conditions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 157 of this title; title 11 App. section 1167.

§ 157. Arbitration

CODIFICATION

The Interstate Commerce Act, as amended, referred to in subdiv. Third (f), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SUBCHAPTER II—CARRIERS BY AIR

§ 181. Application of subchapter I to carriers by air

All of the provisions of subchapter I of this chapter except section 153 of this title are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service.

(May 20, 1926, ch. 347, § 201, as added Apr. 10, 1936, ch. 166, 49 Stat. 1189.)

CODIFICATION

Section is set out in this supplement to correct a typographical error in the main edition.

CHAPTER 9—RETIREMENT OF RAILROAD EMPLOYEES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 405, 415.

SUBCHAPTER IV—RAILROAD RETIREMENT ACT OF 1974

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 354, 361, 362, 772, 775 of this title; title 26 sections 3231, 6103, 6334; title 42 sections 405, 426–1, 1395s, 1395i–1, 1395v, 1395gg, 1395kk.

§ 231. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (a)(1)(i), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49. Title I is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49.

§ 231b. Computation of annuities

[See main edition for text of (a) to (e)]

(f) Reductions in annuities

(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act [42 U.S.C. 301 et seq.], and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 231a(a)(1) of this title (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of title 26) for the calendar year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 231a(a)(1) of this title begins to accrue by 24. For purposes of this subdivision, the term "compensation" shall include "compensation" as defined in section 231(h) of this title, "wages" as defined in section 209 of the Social Security Act [42 U.S.C. 409], "self-employment income" as defined in section 211(b) of the Social Security Act [42 U.S.C. 411(b)], and wages deemed to have been paid under section 217 or 229 of the Social Security Act [42 U.S.C. 417, 429] on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.

[See main edition for text of (2) and (3); (g) to (m)]

(As amended Dec. 20, 1977, Pub. L. 95–216, title III, § 358(a), 91 Stat. 1556.)

AMENDMENTS

1977—Subsec. (f)(1). Pub. L. 95–216 substituted "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977" for "Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 358(b) of Pub. L. 95–216 provided that: "The amendments made by this section [amending subsec. (f)(1) of this section] shall be effective January 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 231, 231a, 231c, 231e, 231f, 231n, 231r of this title; title 42 sections 405, 410, 430.

§ 231f. Railroad Retirement Board

REFERENCES IN TEXT

Section 5108(c)(9) of title 5, referred to in subsec. (b)(9), was repealed by Pub. L. 95-454, § 414(a)(1)(A), Oct. 13, 1978, 92 Stat. 1177.

§ 231m. Assignability; exemption from levy

CROSS REFERENCES

Enforcement of legal obligations to provide child support or make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

CHAPTER 11—RAILROAD UNEMPLOYMENT INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 231f, 231g, 231i, 355a, 363a, 366a, 367, 401, 404, 772, 779 of this title; title 19 section 2319; title 26 section 6334.

§ 351. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended. Part I of the Act, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49. Title I is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49.

§ 352. Benefits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351, 360, 362 of this title; title 26 section 128.

§ 358. Contributions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 360, 404 of this title; title 26 section 51.

§§ 361, 362

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

CHAPTER 13—RAILROAD SAFETY

SUBCHAPTER II—RULES, REGULATIONS, ORDERS, AND STANDARDS

Sec.
442. Limitations on funding [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 421. Congressional declaration of purpose

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-574, § 1, Nov. 2, 1978, 92 Stat. 2459, provided that: "This Act [enacting section 442 of this title, amending sections 6, 13, 34, 61, 63a, 436, 437, and 441 of this title and section 26 of Title 49, Transportation, and enacting provisions set out as notes under sections 63a and 440 of this title] may be cited as the 'Federal Railroad Safety Authorization Act of 1978'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 11125.

SUBCHAPTER II—RULES, REGULATIONS, ORDERS, AND STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 442 of this title; title 49 section 1.

§ 435. Investigative and surveillance activities by State

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 436, 440, 441 of this title.

§ 436. Enforcement of rule, regulation, order, or standard by State agency engaged in investigative and surveillance activities; preconditions; jurisdiction and power of court; exceptions

In any case in which the Secretary has failed to assess the civil penalty applicable under section 438 of this title, or no civil action has been commenced to obtain injunctive relief under section 439 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this subchapter, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 435 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard. The court shall have jurisdiction to enforce compliance with such rule, regulation, order, or standard by injunction or other proper process to restrain further violation thereof, or to enjoin compliance therewith, or to assess and collect the civil penalty included in or made applicable to such rule, regulation, order, or standard. The provisions of this section shall not apply in any case in which the Secretary has affirmatively determined, in writing, that no violation has occurred.

(As amended Pub. L. 95-574, § 8, Nov. 2, 1978, 92 Stat. 2461.)

AMENDMENTS

1978—Pub. L. 95-574 changed the date for application to district court for enforcement order from 90 days from occurance of a violation to 90 days from date notification of such violation is received by the Secretary.

§ 437. General powers

[See main edition for text of (a)].

(b) Inspection and examination of rail facilities and records by officers, employees, or agents of Secretary; credentials; status as Federal employees

To carry out the Secretary's responsibilities under this subchapter, officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equip-

ment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Federal Government for purposes of chapter 171 of title 28.

(c) Force and effect of orders, rules, regulations, standards, and requirements for purposes of determining liability of common carriers by railroad for injuries to employees

All orders, rules, regulations, standards, and requirements in force, or prescribed or issued by the Secretary under this subchapter, or by any State agency which is participating in investigative and surveillance activities pursuant to section 435 of this title, shall have the same force and effect as a statute for purposes of the application of sections 53 and 54 of this title, relating to the liability of common carriers by railroad for injuries to their employees.

(d) Redesignated (c)

(As amended Pub. L. 95-574, § 9, Nov. 2, 1978, 92 Stat. 2462.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-574, § 9(1), (2), redesignated former subsec. (c) as (b) and, as so redesignated, deleted references to National Transportation Safety Board and added provision that during the inspection the officers shall be considered employees of the Federal Government for purposes of chapter 171 of Title 28. Former subsec. (b), relating to authority of the National Transportation Safety Board, was struck out.

Subsecs. (c), (d). Pub. L. 95-574, § 9(1), redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

§ 440. Annual report by Secretary

RAIL TRANSPORTATION SAFETY AND EFFICIENCY STUDY

Pub. L. 95-574, § 10, Nov. 2, 1978, 92 Stat. 2462, provides that:

"(a) The Secretary of Transportation shall conduct a study and evaluation concerning the safety and efficiency of rail transportation. Such study and evaluation shall include—

"(1) a determination of the relationship of the size, weight, and length of railroad cars (other than those contained in unit trains) to the safety and efficiency of rail transportation; and

"(2) a determination of the effect of the exclusive ownership and control of rights-of-way by individual railroads on the safety and efficiency of rail transportation, considering, among other things, whether or not such rights-of-way might be better employed under new structures of ownership or other conditions for joint usage.

"(b) Within one year after the date of enactment of this Act [Nov. 2, 1978], the Secretary of Transportation shall complete the portion of the study described in subsection (a)(1) of this section.

"(c) Within two years after the date of enactment of this Act [Nov. 2, 1978], the Secretary of Transportation shall complete the portion of the study described in subsection (a)(2) of this section and submit a report to the Congress setting forth the results of such study, together with recommendations for such legislative or other action as the Secretary deems appropriate."

§ 441. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $37,725,000 for the fiscal year ending September 30, 1979, and not to exceed $37,725,000 for the fiscal year ending September 30, 1980.

(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

(1) For the Office of Safety, including salaries and expenses for not more than (A) 600 safety inspectors, (B) 45 signal and train control inspectors, and (C) 125 clerical personnel, not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

(2) To carry out the provisions of section 435(d) of this title, relating to State safety programs, not to exceed $3,500,000.

(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

(4) For conducting safety research and development activities under this chapter, not to exceed $10,000,000. Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.

(c) Repealed. Pub. L. 95-574, § 2, Nov. 2, 1978, 92 Stat. 2459

(As amended Pub. L. 95-574, § 2, Nov. 2, 1978, 92 Stat. 2459.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(4), was in the original "this Act", meaning Pub. L. 91-458, Oct. 16, 1970, 84 Stat. 971, which enacted this chapter and chapter 26 (§ 1761 et seq.) of Title 49, Transportation. Chapter 26 of Title 49 was repealed by section 113(g) of Pub. L. 93-633, title I, Jan. 3, 1975, 88 Stat. 2163. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-574 substituted "$37,725,000" for "$35,000,000" in two places, "September 30, 1979" for "September 30, 1977", and "September 30, 1980" for "September 30, 1978".

Subsec. (b)(1). Pub. L. 95-574 authorized an additional 100 safety inspectors in cl. (A), 15 additional clerks in cl. (C), increased the salary and expenses authorization to $20,725,000 from $18,000,000 and provided that such funds be available for travel expenses of safety inspectors for not less than 20 days per month.

Subsec. (b)(4). Pub. L. 95-574 substituted provision that funds appropriated under this section for research and development, automated track inspection, and safety grant programs remain available until expended for provision authorizing up to $10,000,000 in any fiscal year for research and development under this chapter.

Subsec. (c). Pub. L. 95-574 struck out former subsec. (c) limiting the aggregate amounts available for research and development under this chapter.

§ 442. Limitations on funding

Not less than 50 percent of the funds appropriated to the Secretary of Transportation for any fiscal year to conduct railroad research and development programs under the Federal Railroad Safety Act of 1970 [45 U.S.C. 431 et seq.] or any other Act shall be available for safety research, improved track inspection and data ac-

quisition technology, improved rail freight service, and improved rail passenger systems.

(Pub. L. 95-574, § 3, Nov. 2, 1978, 92 Stat. 2459.)

REFERENCES IN TEXT

The Federal Railroad Safety Act of 1970, referred to in text, is Pub. L. 91-458, title II, Oct. 16, 1970, 84 Stat. 971, as amended, which is classified generally to this subchapter (§ 431 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 431 of this title and Tables.

CODIFICATION

Section was enacted as part of the Federal Railroad Safety Authorization Act of 1978, and not as a part of the Federal Railroad Safety Act of 1970 which comprises this subchapter.

CHAPTER 14—RAIL PASSENGER SERVICE

SUBCHAPTER III—NATIONAL RAILROAD PASSENGER CORPORATION

Sec.
545a. Mail service [New].
546a. Jurisdiction of Interstate Commerce Commission over rate, fare, charge, or marketing practice [New].

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

646. Rail Safety System Program [New].

SUBCHAPTER I—GENERAL PROVISIONS

§ 501. Congressional findings and declaration of purpose

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-421, § 1, Oct. 5, 1978, 92 Stat. 923, provided that: "This Act [enacting sections 545a, 546a, and 646 of this title, amending sections 541, 545, 562, 563, 601, 602, 853, and 854 of this title and section 1653 of Title 49, Transportation, and enacting provisions set out as notes under sections 521 and 541 of this title] may be cited as the 'Amtrak Improvement Act of 1978'."

§ 502. Definitions

CODIFICATION

Section 1(3) of title 49, referred to in par. (1), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 10102 of Title 49.

SUBCHAPTER II—BASIC NATIONAL RAIL PASSENGER SYSTEM

§ 521. Designation of system

CODIFICATION

Section 13a of title 49, referred to in text, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by sections 10908 and 10909 of Title 49.

ROUTE SYSTEM FOR NATIONAL RAILROAD PASSENGER CORPORATION TO PROVIDE OPTIMAL INTERCITY RAILROAD PASSENGER SERVICE

Pub. L. 95-421, § 4, Oct. 5, 1978, 92 Stat. 923, provided that:

"(a) The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary'), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred to as the 'Corporation'), shall immediately develop preliminary recommendations for a route system for the Corporation which will provide and [*sic*] optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route system. In developing such recommendations, the Secretary shall consider—

"(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

"(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

"(3) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passenger per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

"(4) the transportation needs of areas lacking adequate alternative forms of transportation;

"(5) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

"(6) the adequacy of other transportation modes serving the same points to be served by the recommended route system.

"(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act [section 151 et seq. of this title] to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

"(1) a recommended route system by end points and principal intermediate points to be served;

"(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

"(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State supported routes and State supported routes;

"(4) an estimate of the equipment and facilities necessary to support the recommended system;

"(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

"(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

"(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passen-

ger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Rail Services Planning Office is required to conduct. During such period, in addition to holding public hearings, the Rail Services Planning Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act [section 151 et seq. of this title] to represent railroad employees, interested citizens groups, and the United States Postal Service.

"(d) The Rail Services Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route system for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the potential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

"(e)(1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explanatory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 90 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations.

"(2) If either the House of Representatives or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall, within 45 days after the date of adoption, determine and resubmit a revised recommendation. Each such revised plan shall be submitted to the Congress for review pursuant to paragraph (1) of this subsection.

"(3) For the purposes of this subsection—

"(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 90-day period.

"(f) Notwithstanding any other provision of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this subsection shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

"(g) Subject to subsection (f) of this section, immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of such approval.

"(h)(1) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the date of approval of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1).

"(2) During the period beginning on the date of enactment of this section [Oct. 5, 1978], and ending 12 months after the date of approval of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic route system.

"(i) Subject to subsection (f) of this section, the basic system designated in the final recommendations of the Secretary shall, after the date upon which such recommendations are approved, supersede any other system or route previously in effect."

SUBCHAPTER III—NATIONAL RAILROAD PASSENGER CORPORATION

§ 541. Establishment of the corporation

There is authorized to be created a National Railroad Passenger Corporation. The Corporation shall be operated and managed as a for profit corporation, the purpose of which shall be to provide intercity rail passenger service, employing innovative operating and marketing concepts so as to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements. The Corporation will not be an agency or establishment of the United States Government. It shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act [D.C. Code, sec. 29-901 et seq.]. The right to repeal, alter, or amend this chapter at any time is expressly reserved.

(As amended Pub. L. 95-421, § 11, Oct. 5, 1978, 92 Stat. 928.)

AMENDMENTS

1978—Pub. L. 95-421 added "operated and managed as" preceding "a for profit corporation".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 20 of Pub. L. 95-421 provided that:

"(a) Except as provided in subsection (b) or (c) of this section, the provisions of this Act and the amendments made by this Act [enacting sections 545a, 546a, and 646 of this title, amending sections 541, 545, 562, 563, 601, 602, 853, and 854 of this title and section 1653 of Title 49, Transportation, and enacting provisions set out as notes under sections 501 and 521 of this title] shall take effect on the date of enactment of this Act [Oct. 5, 1978].

"(b) The provisions of section 7 of this Act [enacting section 546a of this title] shall take effect on January 1, 1979.

"(c) The amendments made by section 9 and section 16 of this Act [amending sections 854 and 563, respectively, of this title] shall take effect on October 1, 1978."

§ 544. Common and preferred stock

CODIFICATION

Section 1(3)(b) of title 49, referred to in subsecs. (a) and (b), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 10102 of Title 49.

§ 545. General powers

[See main edition for text of (a) to (i)]

(j) Purchase of articles, materials and supplies mined, manufactured or produced in United States; exceptions

(1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation shall purchase only—

(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

(B) manufactured articles, materials, and supplies which have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(3) The provisions of this subsection shall not apply—

(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $1,000,000; or

(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before October 5, 1978.

(4) For purposes of this subsection, the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(As amended Pub. L. 95-421, § 10, Oct. 5, 1978, 92 Stat. 928.)

AMENDMENTS

1978—Subsec. (j). Pub. L. 95-421 added subsec. (j).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-421 effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 545a. Mail service

The National Railroad Passenger Corporation shall utilize all feasible means, including taking into account the needs of the United States Postal Service in establishing schedules, to attract and service the bulk mail needs of the Postal Service.

(Pub. L. 95-421, § 19, Oct. 5, 1978, 92 Stat. 930.)

CODIFICATION

Section was enacted as part of the Amtrak Improvement Act of 1978, and not as a part of the Rail Passenger Service Act of 1970 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 546. Laws applicable

CODIFICATION

Sections 1(3) and 22(1) and part I of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), which were classified to sections 1(3) and 22(1) and chapter 1 (§ 1 et seq.) of Title 49, Transportation, were repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Sections 1(3), and 22(1) and part I are now covered by sections 10102 and 10721-10724 and subchapter I (§ 10501 et seq.) of chapter 105 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 546a of this title.

§ 546a. Juridiction of Interstate Commerce Commission over rate, fare, charge, or marketing practice

Notwithstanding the provisions of section 546 of this title, the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice.

(Pub. L. 95-421, § 7, Oct. 5, 1978, 92 Stat. 927.)

CODIFICATION

Section was enacted as part of the Amtrak Improvement Act of 1978, and not as a part of the Rail Passenger Service Act of 1970 which comprises this chapter.

Part I of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), referred to in text, which was classified to chapter 1 (§ 1 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first

section of which enacted subtitle IV (§ 1010 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

EFFECTIVE DATE

Section effective Jan. 1, 1979, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SUBCHAPTER IV—PROVISION OF RAIL PASSENGER SERVICES

§ 561. Assumption of intercity rail passenger service by the Corporation

CODIFICATION

Part I and section 13a(1) of the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), referred to in subsec. (a)(1), which were classified to chapter 1 (§ 1 et seq.) and section 13a(1) of Title 49, Transportation, were repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Part I and section 13a(1) are now covered by subchapter I (§ 10501 et seq.) of chapter 105 and section 10908, respectively, of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 562. Facilities and service agreements

(a) Contracts with railroads or regional transportation agencies; authority of Interstate Commerce Commission; fixing of compensation; agreements with State, local or regional transportation agencies; disagreement procedures; criteria for compensation

The Corporation may contract with railroads or with regional transportation agencies for the use of tracks and other facilities and the provision of services on such terms and conditions as the parties may agree. In the event of a failure to agree, the Interstate Commerce Commission shall, within ninety days after application by the Corporation, if it finds that doing so is necessary to carry out the purposes of this chapter, order the provision of services or the use of tracks or facilities of the railroad by the Corporation, on such terms and for such compensation as the Commission may fix as just and reasonable, and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order or under an order issued under subsection (b) of this section shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission. In fixing just and reasonable compensation for the provision of services or for the use of tracks and facilities ordered by the Commission under the preceding sentence, the Commission shall, in fixing compensation in excess of incremental costs, consider quality of service as a major factor in determining the amount (if any) of such compensation. If the amount of compensation fixed is not duly and promptly paid, the railroad or agency entitled thereto may bring an action against the Corporation to recover the amount properly owed. Notwithstanding any other provision of this chapter, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way, and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 [45 U.S.C. 701 et seq.] and the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 801 et seq.]. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services.

[See main edition for text of (b) to (f)]

(As amended Pub. L. 95–421, § 15, Oct. 5, 1978, 92 Stat. 929.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–421 added "or for the use of tracks and facilities" following "provision of services".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 565, 744, 852 of this title; title 49 section 10362.

§ 563. Rail Service beyond basic system

[See main edition for text of (a)]

(b) Request for additional services; agreements for services; criteria and renewal; petition for order directing compliance with request; priority of application for services; establishment of solely related costs, associated capital, and revenues

(1) Any State, regional, or local agency may request of the Corporation rail passenger service beyond that included within the basic system. The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of solely related costs and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

[See main edition for text of (A) and (B)]

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of

such service. The State or agency shall be entitled to reimbursement for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.

(2) Whenever a State, regional, or local agency requests the Corporation to institute service pursuant to this subsection, or to enter into a contract or other agreement or modify an existing contract or agreement relating to rates, fares, charges, scheduling, marketing, or operations of service provided pursuant to this subsection, and the Corporation fails to institute such service or to enter into or modify such contract or agreement, as the case may be, such State, regional, or local agency may petition the Commission for an order directing the Corporation to comply with its request. If the Commission determines, upon receipt of such a petition and after notice and an opportunity for a hearing, that the request which is the subject of such petition is consistent with the public interest and the purposes of this subsection, the Commission may enter an order directing the Corporation to comply with such request or to take such other action as the Commission considers appropriate.

(3) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

(4) The Board of Directors shall establish the basis for determining the solely related costs and associated capital costs and the total revenue of the service provided pursuant to this subsection.

[*See main edition for text of* (c)]

(d) Operation of commuter rail passenger service under agreement with State; reimbursement of avoidable cost

The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term "commuter rail passenger service" means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

(As amended Pub. L. 95-421, §§ 16-18, Oct. 15, 1978, 92 Stat. 929, 930.)

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95-421, § 16, added provision relating to reimbursement to State or agency for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.

Subsec. (b)(2) to (4). Pub. L. 95-421, § 17, redesignated pars. (2) and (3) as (3) and (4), respectively, and added a new par. (2).

Subsec. (d). Pub. L. 95-421, § 18, added subsec. (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment of subsec. (b)(1) by Pub. L. 95-421 effective Oct. 1, 1978, see section 20(c) of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

Amendment of subsec. (b)(2) to (4) and (d) by Pub. L. 95-421 effective Oct. 5, 1978, see section 20(a) of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 502, 564, 601 of this title.

§ 564. Addition to or discontinuance of routes and services

CODIFICATION

Section 13a of title 49, referred to in subsecs. (a), (b)(3), and (c)(3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by sections 10908 and 10909 of Title 49.

§ 565. Protective arrangements for employees

CODIFICATION

Section 5(2)(f) of the Interstate Commerce Act [49 U.S.C. 5(2)(f)], referred to in subsec. (b), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 11347 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 sections 10903, 11347.

SUBCHAPTER VI—FEDERAL FINANCIAL ASSISTANCE

§ 601. Authorization of appropriations; payment of capital grants; temporary reduction of outstanding loan balances

(a)(1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation in fiscal year 1971, $40,000,000, and in subsequent fiscal years through June 30, 1975, a total of $597,300,000. There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

(1) for the payment of operating expenses for the basic system, including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), and for operating and capital expenses of rail passenger service provided pursuant to section 563(b) of this title, not to exceed $350,000,000 for the fiscal year ending June 30, 1976, not to exceed $105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $430,000,000 for the fiscal year ending September 30, 1977, not to exceed $470,000,000 for the fiscal year ending September 30, 1978,

and not to exceed $600,000,000 for the fiscal year ending September 30, 1979;

(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed $110,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed $130,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(5)); and

(3) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and not to exceed $25,000,000 for the fiscal year ending September 30, 1979.

Not more than $25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than $7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than $35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than $40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 563(b) of this title. Funds appropriated pursuant to such authorization shall be made available to the Secretary during the fiscal year for which appropriated and shall remain available until expended. Such sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with spending plans approved by Congress at the time of appropriation and general guidelines established annually by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

(2) Funds appropriated for capital grants pursuant to this section (other than subsection (a)(3) of this section) shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this title.

(b) Repealed. Pub. L. 95–421, § 3, Oct. 5, 1978, 92 Stat. 923

(As amended Pub. L. 95–421, §§ 2(a), (b)(1), 3, Oct. 5, 1978, 92 Stat. 923.)

REFERENCES IN TEXT

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsec. (a)(1)(1), is Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 31, as amended. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 enacted subchapter III (§ 851 et seq.) of chapter 17 of this title, amended sections 543, 545, 546, 562, 563, 564, and 791 of this title and section 1653 of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

1978—Subsec. (a)(1)(1). Pub. L. 95–421, § 2(a)(1), substituted "including the payment of the additional operating expenses of the corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976" for "except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence", and added provision authorizing the appropriation of not to exceed $600,000,000 for the fiscal year ending September 30, 1979.

Subsec. (a)(1)(2). Pub. L. 95–421, § 2(a)(2), added provision for the authorization of appropriation of not to exceed $130,000,000 for the fiscal year ending Sept. 30, 1979, which shall include funds for expenditures for compatible equipment under section 853(5) of this title.

Subsec. (a)(1)(3), (4). Pub. L. 95–421, § 2(a)(3), (4), struck out cl. (3) relating to appropriation, for the payment of additional operating expenses of the corporation resulting from operation, maintenance and ownership or control of the Northeast Corridor, of not to exceed $68,000,000 for the transitional fiscal period ending Sept. 30, 1976 and fiscal year ending Sept. 30, 1977, and not to exceed $75,000,000 for fiscal year ending Sept. 30, 1978; redesignated cl. (4) as (3), and in cl. (3) as so redesignated, added "and not to exceed $25,000,000 for the fiscal year ending September 30, 1979".

Subsec. (a)(2). Pub. L. 95–421, § 2(b)(1), substituted "subsection (a)(3)" for "subsection (a)(4)".

Subsec. (b). Pub. L. 95–421, § 3, struck out subsec. (b), requiring a concurrent transmittal to Congress of any budget estimate or request, legislative recommendation, proposed testimony, or comments on legislation, submitted to the President, the Department of Transportation or the Office of Management and Budget.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

§ 602. Guarantee of loans

[See main edition for text of (a) to (c)]

(d) Unpaid principal amount limitation

The aggregate unpaid principal amount of securities, obligations, leases, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $900,000,000. Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to clause (3) of section 601(a) of this title. The Secretary shall prescribe and collect a reasonable annual guaranty fee.

[See main edition for text of (e) to (i)]

(As amended Pub. L. 95–421, § 2(b)(2), Oct. 5, 1978, 92 Stat. 923.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–421 substituted "clause (3)" for "clause (4)".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-421 effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SUBCHAPTER VII—EMERGENCY FINANCIAL ASSISTANCE

§ 622. Authorization of appropriations

There are hereby authorized to be appropriated such amounts not to exceed $200,000,000 as may be necessary to carry out the purposes of this subchapter. Any sums appropriated shall be available until expended.

(Pub. L. 91-518, title VII, § 702, Oct. 30, 1970, 84 Stat. 1339.)

CODIFICATION

Section is set out in this supplement to correct a typographical error appearing in the main edition.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 641. Adequacy of service; regulations; maintenance of civil actions for enforcement of provisions

ROUTE SYSTEM FOR NATIONAL RAILROAD PASSENGER CORPORATION TO PROVIDE OPTIMAL INTERCITY RAILROAD PASSENGER SERVICE

Provisions of subsec. (a) of this section (including the regulations of the Commission promulgated thereunder) not applicable to the development or implementation of the new basic route system and service during the period beginning Oct. 5, 1978 and ending 12 months after the date of approval of the new basic system designated by the Secretary of Transportation, see Pub. L. 95-421, § 4, Oct. 5, 1978, 92 Stat. 923, set out as a note under section 521 of this title.

§ 646. Railroad Safety System Program

(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on property owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

(b) The Railroad Safety System Program required under this section shall include but not be limited to—

(1) a periodic analysis of accident data, including primary and secondary causes, if known;

(2) a periodic evaluation of the activities undertaken under the Program, particularly the specific steps taken in response to accident causes;

(3) a periodic identification of the expenditures for occupational health and safety activities included in the Program;

(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the Program;

(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.

(Pub. L. 91-518, title VIII, § 807, as added Pub. L. 95-421, § 13, Oct. 5, 1978, 92 Stat. 929.)

EFFECTIVE DATE

Section effective Oct. 5, 1978, see section 20 of Pub. L. 95-421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

CHAPTER 15—EMERGENCY RAIL SERVICES

§ 661. Definitions

REFERENCES IN TEXT

The Bankruptcy Act, referred to in par. (4), was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

CODIFICATION

Part I of the Interstate Commerce Act (49 U.S.C. 1-27), referred to in par. (3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Tables at the beginning of Title 49.

§ 662. Guarantee of certificates

(a) Authority of Secretary; prerequisites; procedures waiver

The trustees of any railroad undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), upon approval of the court, may apply to the Secretary for the guarantee of certificates. The Secretary, after consultation with the Commission, is authorized to guarantee such certificates upon findings in writing that—

[See main edition for text of (1) to (6)]

The Secretary shall publish notice of his intention to make such finding in the Federal Register not less than fifteen days prior to such finding, give interested persons, including agencies of the Federal Government, an opportunity to submit written data, views, or arguments (with or without opportunity for oral presentation), and give consideration to the relevant matter presented. The Secretary for good cause shown and upon a finding that extraordinary circumstances warrant doing so may waive the requirements of the preceding sentence. Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 721(d)(1) of this title, to maintain rail services in the region (as such term is defined in section 702(15) of this title). The Secretary may not make any waiver under the preceding sentence after December 31, 1979.

[See main edition for text of (b)]

(c) Repealed. Pub. L. 95–598, title III, § 333, Nov. 6, 1978, 92 Stat. 2679

[See main edition for text of (d) to (f)]

(As amended Pub. L. 95–598, title III, § 333, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 95–611, § 3(b), Nov. 8, 1978, 92 Stat. 3089.)

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (a), was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

CODIFICATION

Section 5 of the Interstate Commerce Act [49 U.S.C. 5], referred to in subsec. (b)(4), was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter III (§ 11341 et seq.) of chapter 113 of Title 49.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–611 added provision authorizing the Secretary to waive requirements of paragraphs (1), (5), and (6) of subsec. (a) until Dec. 31, 1979.

Subsec. (c). Pub. L. 95–598 struck out subsec. (c) relating to treatment of a certificate as an administrative expense and priority of the certificate.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 666. Court supervision of expenditures; findings; report to Secretary

REFERENCES IN TEXT

The Bankruptcy Act, referred to in text, was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

CHAPTER 16—REGIONAL RAIL REORGANIZATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 562, 802, 823, 824, 851, 854 of this title; title 49 section 10362.

SUBCHAPTER I—GENERAL PROVISIONS

§ 701. Congressional declaration of policy

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (a)(1), was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682; section 101 of which enacted Title 11, Bankruptcy.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–565, § 1, Nov. 1, 1978, 92 Stat. 2397 provided: "That this Act [amending sections 726, 747, and 825 of this title and section 975 of Title 43, Public Lands, and enacting provision set out as a note under section 975 of Title 43] may be cited as the 'United States Railway Association Amendments Act of 1978'."

§ 702. Definitions

REFERENCES IN TEXT

Section 205 of title 11, referred to in par. (14), was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

CODIFICATION

Section 715 of this title, referred to in par. (10), was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (§ 10361 et seq.) of chapter 103 of Title 49.

Section 1(3) of title 49, referred to in par. (13), was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, and is now covered by section 10102 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 621, 662 of this title; title 19 section 2373; title 26 section 374; title 49 section 1613.

SUBCHAPTER II—UNITED STATES RAILWAY ASSOCIATION

§ 711. Formation and structure

[See main edition for text of (a) to (d)]

(e) Terms of office

The terms of office of the nongovernment members of the Board of Directors of the Association first taking office shall expire as designated by the President at the time of nomination—two at the end of the second year; two at the end of the fourth year; and three at the end of the sixth year. The term of office of the Chairman of such Board shall be 6 years. Successors to members of such Board shall be appointed in the same manner as the original members and, except in the case of government members, shall have terms of office expiring 6 years from the date of the expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors have been appointed and qualified.

[See main edition for text of (f) to (k)]

(As amended Pub. L. 95–611, § 2, Nov. 8, 1978, 92 Stat. 3089.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95–611 added provision that members of the Board shall continue to serve until their successors have been appointed and qualified.

§ 712. General powers and duties of the Association

(a) General

To carry out the purposes of this chapter, the Association is authorized to—

[See main edition for text of (1) to (6)]

(7) consult with the Secretary of the Army and the Chief of Engineers and request the assistance of the Corps of Engineers, and the Secretary of the Army may direct the Corps of Engineers to cooperate fully with the Association, the Corporation, or any entity designated in accordance with section 716(c)(1)(C) of this title in order to carry out the purposes of this chapter;

[*See main edition for text of (a)(8) to (d)*]

(e) Reports

The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (A) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this chapter; (B) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this chapter, measured through the end of the preceding fiscal year; (C) recommendations with respect to any legislation or administrative action which the Association deems necessary or desirable; (D) a statistical compilation of the obligations issued, certificates of value issued, securities purchased, and loans made under this chapter; (E) a summary of outstanding problems confronting the Association, in order of priority; (F) all other information required to be submitted to the Congress pursuant to any other provision of this chapter; and (G) the Association's projections and plans for its activities and programs during the next fiscal year.

(2)[1] For the fiscal year beginning October 1, 1977, and ending September 30, 1978, the Association shall transmit to the Congress and the President, not later than 30 days after the end of each quarter of such fiscal year, a comprehensive and detailed report on all expenditures and use of funds during the preceding fiscal quarter, including an assessment of the status of projects for such preceding fiscal quarter and a projection of activities proposed for the next fiscal quarter.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-199, § 2, Nov. 23, 1977, 91 Stat. 1423.)

REFERENCES IN TEXT

Section 763 of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

CODIFICATION

Section 715 of this title, referred to in subsec. (b)(4), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (§ 10361 et seq.) of chapter 103 of Title 49.

Subsec. (a)(7) is set out in this supplement to correct typographical error appearing in the main edition.

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-199 in subsec. catchline substituted "Reports" for "Annual report", in first par. redesignated cls. (1) through (7) as cls. (A) through (G), and added par. (2).

§ 715. Repealed. Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466

Section, Pub. L. 93-236, title II, § 205, Jan. 2, 1974, 87 Stat. 993, amended Pub. L. 94-5, § 3, Feb. 28, 1975, 89 Stat. 7; Pub. L. 94-210, title III, § 309, Feb. 5, 1976, 90 Stat. 57, established the Rail Services Planning Office. See section 10361 et seq. of Title 49, Transportation.

§ 716. Final system plan

[*See main edition for text of (a) to (c)*]

(d) Transfers

All transfers or conveyances pursuant to the final system plan shall be made in accordance with, and subject to, the following principles:

[*See main edition for text of (1) to (4)*]

(5) All properties—

[*See main edition for text of (A) and (B)*]

(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation, within 3 years after the date of conveyance, pursuant to section 743(b)(1) of this title, to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) or (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements) and the cost to the Corporation of transferring such properties. The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 743 of this title to meet the needs of commuter or intercity rail passenger service or for purposes of providing rail marine freight floating service, except as otherwise provided with respect to the Corporation pursuant to section 743(c)(2) of this title.

[*See main edition for text of (6) and (7); (e) to (j)*]

(As amended Pub. L. 95-611, § 4(a), Nov. 8, 1978, 92 Stat. 3090.)

REFERENCES IN TEXT

Sections 762 and 763 of this title, referred to in subsec. (g), were repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

CODIFICATION

Section 5 of title 49, referred to in subsec. (d)(3), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter III (§ 11341 et seq.) of chapter 113 of Title 49.

AMENDMENTS

1978—Subsec. (d)(5)(C). Pub. L. 95-611 substituted 3 years for 900 days.

[1] So in original. Subsec. contains no par. designated as "(1)".

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 4(b) of Pub. L. 95-611 provided that: "The amendment made by this Act [probably meaning this section 4, which amended section 716 of this title] shall be effective on January 2, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 712, 717, 718, 725, 743, 744, 745, 747, 771, 774, 778, 791, 831, 851, 854 of this title.

§ 717. Adoption of final system plan

REFERENCES IN TEXT

Section 715(d)(1) of this title, referred to in subsec. (b)(1), is a reference to section 715(d)(1) prior to amendment by Pub. L. 94-210. Section 715 was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by subchapter IV (10361 et seq.) of chapter 103 of Title 49.

Section 205 of title 11, referred to in subsec. (b)(1) and (2), was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 716, 721, 774 of this title; title 49 section 1654.

§ 719. Judicial review

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (b), was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

§ 719. Judicial review

[See main edition for text of (a) to (g)]

(h) Special masters

(1) The special court may appoint and fix the compensation and assign the duties of such special masters as it considers necessary or appropriate to conduct hearings, receive evidence and report thereon to the special court, and perform such other acts as the special court may require. The special court may employ such special masters by contract or otherwise, without regard to section 5 of title 41 or part III of title 5, on such terms and conditions as it may determine. Such special masters shall not be deemed to be employees of the Federal Government or any department, agency, or instrumentality thereof. The special court may also appoint employees in such number as may be approved by the Director of the Administrative Office of the United States Courts, and may procure such administrative services as may be necessary for it or the special masters to complete their assignments expeditiously.

(2) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection. Sums appropriated under this subsection are authorized to remain available until expended.

(As amended Pub. L. 95-199, § 3, Nov. 23, 1977, 91 Stat. 1423.)

AMENDMENTS

1977—Subsec. (h). Pub. L. 95-199 added subsec. (h).

§ 721. Loans

[See main edition for text of (a) to (c)]

(d) Modifications

The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon agreement of the recipient of the loan and upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section. Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of November 8, 1978, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this chapter, to be desirable; and

(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $2,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and such railroad has in effect an employee stock ownership plan which has been approved by the Association.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1979.

[See main edition for text of (e) to (i)]

(As amended Pub. L. 95-611, § 3(a), Nov. 8, 1978, 92 Stat. 3089.)

REFERENCES IN TEXT

Section 763 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-611 added provision authorizing the increase of loans to railroads until Dec. 31, 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 662, 712, 720, 726, 743, 774 of this title.

§ 724. Authorization of appropriations

[See main edition for text of (a) and (b)]

(c) Association

For the fiscal year ending September 30, 1979, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this chapter such sums as are necessary, not to exceed

$27,200,000. Sums appropriated under this subsection are authorized to remain available until expended.

(As amended Pub. L. 95-199, § 1, Nov. 23, 1977, 91 Stat. 1423; Pub. L. 95-611, § 1, Nov. 8, 1978, 92 Stat. 3089.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-611 substituted provision authorizing appropriations of $27,200,000 for fiscal year ending Sept. 30, 1979, to remain available until expended, for provision authorizing appropriations of $23,000,000 for fiscal year ending Sept. 30, 1978, to remain available until Sept. 30, 1979.

1977—Subsec. (c). Pub. L. 95-199 substituted provisions authorizing appropriations for the fiscal year ending Sept. 30, 1978, of not to exceed $23,000,000 and authorizing availability of sums to Sept. 30, 1979, for provisions authorizing appropriations for the period beginning May 1, 1976, and ending Sept. 30, 1977, of not to exceed $20,000,000 and authorizing availability of sums to Sept. 30, 1978.

§ 726. Debentures and series A preferred stock

(a) General

The Association is authorized, in accordance with the provisions of this section, and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $2,300,000,000 of the series A preferred stock of the Corporation.

(b) Purposes and procedure for investment

[*See main edition for text of (1)*]

(2) Purchases of up to $1,000,000,000 of debentures and, thereafter, of up to $2,300,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation, unless the Finance Committee makes an affirmative finding that—

[*See main edition for text of (A) to (C); (c) to (e)*]

(f) Employee stock ownership plan

(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied.

(2) The employee stock ownership plan shall:

(A) provide:

(i) for a transfer to the plan and allocation to the accounts of plan participants in periodic installments of Series A preferred stock of the Corporation with a stated redemption value of at least $345,000,000 or any other securities in an amount determined by the Association, with the concurrence of the Finance Committee, as constituting a meaningful interest in the Corporation, or any combination thereof so determined by the Association, with the concurrence of the Finance Committee. The use of Series A preferred stock to fund the Employee Stock Ownership Plan shall not be interpreted to relieve ConRail of the responsibility for repaying in full to the United States Railway Association its indebtedness as represented by all shares originally issued under Public Law 94-210 and this chapter;

(ii) for immediate vesting of the rights of participants to such securities upon allocation, subject to defeasance as a result of the plan's termination which termination shall occur in the event that, by the end of the 120th month beginning after the month in which securities or interests therein are first allocated to participants' accounts, the Corporation has not attained for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977, as determined pursuant to procedures adopted by the Corporation pursuant to regulations promulgated by the Association with the concurrence of the Finance Committee;

(B) be an employee benefit plan which is designed to invest primarily in employer securities;

(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of title 26) as the Secretary of the Treasury or his delegate may describe;

(D) have been approved by the Board of Directors of the Corporation to the extent and in the manner which may be required by the Corporation's articles of incorporation and bylaws then in effect; and

(E) have been prepared in consultation with, and been approved by, the Association and the Finance Committee.

(3) Notwithstanding any other provision of law, if a plan does not meet the requirements of section 401 of title 26—

(A) stock transferred under paragraph (2) and allocated to the account of any participant under paragraph (2) shall not be considered income of the participant or his beneficiary under title 26 until such stock or dividends are actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of title 26 (treating the participant or his beneficiary as having a basis of 0 in the stock);

(B) no amount shall be allocated to any participant under the plan in excess of the amount which might be allocated if the plan met the requirements of section 401 of title 26; and

(C) the plan must meet the requirements of sections 410 and 415 of title 26.

(4) The Corporation shall adopt such terms and conditions governing the securities of interests therein to be transferred to the plan (including limitations on voting rights) as the Association, with the concurrence of the Finance Committee, determines are necessary to protect reasonably the interests of the United States in the litigation pursuant to section 743(c) of this title and in the event of any action to further

reorganize or restructure the Corporation's assets or capital structure.

(5) The Corporation, the Association, and a representative appointed by the Chairman of the Railway Labor Executives' Association as representative of all the classes or crafts of employees of the Corporation shall engage in negotiations to agree upon a plan in accordance with the provisions of this subsection. The parties shall incorporate their agreement into a written plan instrument specifying the terms and conditions set forth in this subsection and such other terms and conditions as they may decide upon, with the concurrence of the Finance Committee, unless the parties are unable to reach on an agreement on the plan following the exertion of every reasonable effort to do so, in accordance with the Railway Labor Act [45 U.S.C. 151 et seq.], in which event, the Corporation and the Association, with the concurrence of the Finance Committee, shall establish a written plan with such terms and conditions as they may agree upon in accordance with this subsection. Within one year after November 1, 1978, the Corporation shall transmit a draft of such plan to the Congress and shall report on its progress in establishing and administering the plan. The report shall include recommendations of contractual and statutory provisions necessary to reasonably (A) exempt any Trustee of the plan, the Corporation, the Association, any member of the Finance Committee, and any other person from any fiduciary duty, responsibility or liability for the acquisition of, investment in, or retention of any security or interest therein of the Corporation or for any other transaction contemplated by this subsection and (B) provide for the United States to indemnify, defend, and hold harmless such persons against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses actually incurred in connection with any matter so exempted in which it is determined that such persons were acting in good faith and in a manner they believed to not be opposed to the best interests of the plan.

(6) Within fourteen months of November 1, 1978, the Association shall report to the Congress on the draft plan and on any legal obstacle to the ability of the Corporation to effectuate and implement an employee stock ownership plan of the nature contemplated by this subsection, including specific recommendations on amendments to this subsection and other relevant laws which would harmonize the requirements of this subsection with those other laws. The Department of Transportation and the Department of the Treasury, as each finds appropriate, shall provide separate comments to the Association for inclusion with such report.

(7) For the purposes of this subsection, the officers of each duly authorized representative of the crafts or classes of the employees of the Corporation who have been given leaves of absence by the Corporation to serve as such officers, are to be eligible to participate in such plan on the same basis as are employees whose employment is governed by a collective bargaining agreement with the Corporation.

(g) Authorization of appropriations

There is authorized to be appropriated to the Association $3,300,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.

(As amended Pub. L. 95-565, §§ 2, 3, Nov. 1, 1978, 92 Stat. 2397.)

REFERENCES IN TEXT

The Regional Rail Reorganization Act Amendments of 1978, referred to in subsec. (f)(1), probably means Pub. L. 95-565, Nov. 1, 1978, 92 Stat. 2397, as amended, known as the United States Railway Association Amendments Act of 1978, which amended sections 726, 747, and 825 of this title and section 975 of Title 43, Public Lands, and enacted a provision set out as a note under section 975 of Title 43. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 701 of this title and Tables.

Public Law 94-210, referred to in subsec. (f)(2)(A), is Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Railway Labor Act, referred to in subsec. (f)(5), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see section 151 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-565, § 2(a), substituted "$2,300,000,000" for "$1,100,000,000".

Subsec. (b)(2). Pub. L. 95-565, § 2(b), substituted "$2,300,000,000" for "$1,100,000,000".

Subsec. (f). Pub. L. 95-565, § 3, added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-565, §§ 2(c), 3, redesignated former subsec. (f) as (g) and, as so redesignated, substituted "$3,300,000,000" for "$2,100,000,000".

SUBCHAPTER III—CONSOLIDATED RAIL CORPORATION

§ 741. Formation and structure

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Section 1(3) of the Act is now covered by section 10102 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 743. Valuation and conveyance of rail properties

[See main edition for text of (a)]

(b) Conveyance of rail properties

[See main edition for text of (1) *to* (5)]

(6)(A) Notwithstanding anything to the contrary contained in this chapter or any other

other [1] provision of law, the special court shall include in its order such further directions as may be necessary to assure (i) that the operation and administration of the employee pension benefit plans described in section 775(a) of this title shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part; and (ii) that appropriate transfers and assignments with respect to all rights and obligations relating to such plans shall be made to the Corporation for such purposes, without prejudice to payment of consideration for whatever rights any railroad in reorganization may have in any residual assets under any such employee pension benefit plan. No court shall enter any judgment against the Corporation with respect to any such rights, except that the special court may enter such a judgment in an order issued by it pursuant to subsection (c) of this section, after taking into consideration the rights and obligations transferred pursuant to this paragraph. All liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event such plan is terminated, in whole or in part, by the Corporation within 1 year after the date of such transfer or assignment (except liabilities as an employer under the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] for benefits accruing during such period), except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1301 et seq.], the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 721(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.

(B) The Corporation shall make such premium payments as may be necessary to maintain in effect any medical or life insurance policy which was maintained by a railroad in reorganization immediately prior to April 1, 1976, and which provides insurance benefits to individuals who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such individual whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

(i) through the purchase of insurance or otherwise, provide medical or life insurance benefits of the same type and at the same or approximately the same level as were provided by the employer railroad in reorganization and in effect with respect to such individual immediately prior to April 1, 1976; and

(ii) assume and pay any claim for such individual (or his personal representative) for any such insurance benefits, if—

(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph; and

(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period.

The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the payment of insurance premiums and benefits described in this subparagraph. For purposes of section 721(h)(4)(A)(iii) of this title, amounts required for the payment of such premiums and benefits shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976, or, in the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of such date, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4) and (5) of such section 721(h) of this title. As used in this subparagraph, the term "railroad in reorganization" includes any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance.

[*See main edition for text of* (c)]

(d) Appeal

A finding or determination entered by the special court pursuant to subsection (c) of this section or section 746 of this title may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28: *Provided*, That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after such finding or determination is entered by the special court. The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.

[*See main edition for text of* (e)]

(As amended Pub. L. 95-199, § 4, Nov. 23, 1977, 91 Stat. 1424; Pub. L. 95-597, § 1, Nov. 4, 1978, 92 Stat. 2547.)

AMENDMENTS

1978—Subsec. (b)(6). Pub. L. 95-597 redesignated existing provisions as subpar. (A) and in subpar. (A), as

[1] So in original.

so redesignated, redesignated clauses (A) and (B) as (i) and (ii), respectively, and added subpar. (B).

1977—Subsec. (d). Pub. L. 95-199 substituted "entered by the special court pursuant to subsection (c) of this section or section 746 of this title" for "entered pursuant to subsection (c) of this section".

ADMINISTRATIVE CLAIM STATUS

Section 2 of Pub. L. 95-597 provided that: "The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act [amending this section] shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 [section 721(h)(4)(A)(iii) of this title] with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h) [section 721(h) of this title], and shall not be construed—

"(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h) [section 721(h) of this title]; or

"(2) as establishing or reordering any priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such insurance premiums and benefits may or may not have under the provisions of the Bankruptcy Act [section 1 et seq. of Title 11, Bankruptcy] or any other law."

CORPORATION AS SUCCESSOR IN INTEREST

Section 3 of Pub. L. 95-597 provided that: "Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act [section 205 of Title 11, Bankruptcy], is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act [amending this section] constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term 'railroad in reorganization' has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973 [section 702(14) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 716, 719, 721, 724, 725, 726, 741, 744, 745, 746, 772, 774, 775, 778, 791, 851, 854 of this title; title 26 section 374; title 49 sections 1613, 1654.

§ 744. Termination and continuation of rail services

(a) Discontinuance

[See main edition for text of (1) and (2)(A)]

(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49.

[See main edition for text of (C) and (D)]

(b) Abandonment

[See main edition for text of (1) and (2)]

(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of subtitle IV of title 49, the constitution or law of any State, or the decision of any court or administrative agency of the United States or of any State.

[See main edition for text of (c)]

(d) Rail freight service

[See main edition for text of (1)]

(2) The trustees of a railroad in reorganization shall permit rail service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable return on the value of such properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49.

(3) If necessary to prevent any disruption or loss of rail service, at any time after the date of conveyance, pursuant to section 743(b)(1) of this title, the Commission—

[See main edition for text of (A)]

(B) shall have authority, in accordance with the provisions of section 11125 of title 49, to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the standards developed pursuant to section 10362(b)(6) of title 49. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

[See main edition for text of (4)]

(e) Rail passenger service

[See main edition for text of (1) to (3)]

(4) If a State (or a local or regional transportation authority)—

(A) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49, for the operation of rail passenger service after the 180-day mandatory operation period, and

(B) provides compensation, pursuant to paragraph (2) of this subsection, for oper-

ations conducted during the 180-day mandatory operation period; or

(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 10362(b)(5) of title 49, for the operation of rail passenger service provided under an agreement or lease pursuant to section 743(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 1613(a)(2) of title 49,

the Corporation (or a profitable railroad) shall continue to provide such service after the end of such period, except as otherwise provided in this subsection.

(5)(A) The Secretary shall reimburse the Corporation (or a profitable railroad) for any loss which is incurred by it during the 180-day mandatory operation period specified in paragraph (1) of this subsection which is not compensated for by a State (or a local or regional transportation authority). The amount of such reimbursement shall be determined pursuant to section 1613(a)(1) of title 49 and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49.

(B) The Secretary shall reimburse States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies for rail service continuation payments for rail passenger service pursuant to section 1613(a)(2) of title 49 and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49.

[*See main edition for text of (C) and (D), (6)*]

(7)(A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 10362(b)(5) of title 49, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 716(c)(1)(C) and 716(c)(1)(D) of this title and to the Corporation pursuant to section 743(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

(B) As used in this paragraph, the term "additional rail passenger service" means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 743(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this chapter, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 743(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after November 8, 1978, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.

[*See main edition for text of (f)*]

(g) Abandonment by corporation

After the rail system to be operated by the Corporation or a subsidiary thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or a subsidiary thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or a subsidiary thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission

may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of subtitle IV of title 49.

[*See main edition for text of* (h) *and* (i)]

(j) Repealed. Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466

(As amended Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1466; Pub. L. 95–607, title II, § 201, Nov. 8, 1978, 92 Stat. 3064.)

REFERENCES IN TEXT

Section 205 of title 11, referred to in subsec. (h)(3), was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682.

CODIFICATION

In subsecs. (a)(2)(B), (d)(2) and concluding par., (e)(4)(A) and (C), (e)(5)(A) and (B), and (e)(7)(A), reference to "section 10362(b)(5) of title 49" and "section 10362(b)(6) of title 49" were substituted for "section 715(d)(5) of this title" and "section 715(d)(6) of this title", respectively, on authority of section 3(b) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation.

In subsecs. (b)(3), (d)(3)(B), and (g), reference to "subtitle IV of title 49" and "section 11125 of title 49" were substituted for "the Interstate Commerce Act [49 U.S.C. 1 et seq.]" and "section 1(16)(b) of the Interstate Commerce Act [49 U.S.C. 1(16)(b)]", respectively, on authority of section 3(b) of Pub. L. 95–473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49.

AMENDMENTS

1978—Subsec. (e). Pub. L. 95–607 added subpar. (C) of par. (4) and pars. (7) and (8).

Subsec. (j). Pub. L. 95–473 struck out subsec. (j) which had provided for exempt rail mass transportation not under the jurisdiction of the Interstate Commerce Commission. See section 10504 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 742 of this title; title 49 sections 1613, 10362.

§ 746. Certificate of value

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 743 of this title; title 26 section 374.

§ 747. Protection of Federal funds

[*See main edition for text of* (a) *and* (b)]

(c) Monitoring of the corporation

(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

(2) Within 90 days after November 1, 1978, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this subchapter.

(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or group of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins after the end of the 90-day period for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring information periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policymaking, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred.

(As amended Pub. L. 95–565, § 7, Nov. 1, 1978, 92 Stat. 2400.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–565 added subsec. (c).

SUBCHAPTER IV—LOCAL RAIL SERVICES

§§ 761 to 763. Repealed. Pub. L. 94–210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143

Section 761, Pub. L. 93–236, title IV, § 401, Jan. 2, 1974, 87 Stat. 1010, related to Congressional findings and purpose in providing for a program of rail service continuation subsides.

Section 762, Pub. L. 93–236, title IV, § 402, Jan. 2, 1974, 87 Stat. 1010; Pub. L. 93–488, § 1(d), Oct. 26, 1974, 88 Stat. 1464; Pub. L. 94–210, title VIII, § 805(a), Feb. 5, 1976, 90 Stat. 139, directed the Secretary to provide financial assistance to States and local or regional transportation authorities in facilitating or maintaining main line or local rail service.

Section 763, Pub. L. 93–236, title IV, § 403, Jan. 2, 1974, 87 Stat. 1012; Pub. L. 93–488, § 1(e), Oct. 26, 1974, 88 Stat. 1465; Pub. L. 94–210, title VIII, § 805 (b), (c), Feb. 5, 1976, 90 Stat. 142, authorized the Association to provide loans for the acquisition of rail properties by States or local or regional transportation authorities and for the modernization of these acquired properties.

EFFECTIVE DATE OF REPEAL

Pub. L. 94-210, title VIII, § 806, Feb. 5, 1976, 90 Stat. 143, provided in part that the repeal of sections 761 to 763 of this title would be effective on the date of the second anniversary of the date on which rail properties were conveyed pursuant to section 743(b)(1) of this title. The rail properties in question were conveyed on Apr. 1, 1976.

SUBCHAPTER V—EMPLOYEE PROTECTION

§ 771. Definitions

CODIFICATION

The Interstate Commerce Act, referred to in par. (2), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, parts I and II of which were classified to chapters 1 (§ 1 et seq.) and 8 (§ 301 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV § 10101 et seq.) of Title 49. The definitions are now contained in section 10102 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 791. Relationship to other laws

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (b)(1), (4), was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), 92 Stat. 2682, section 101 of which enacted Title 11, Bankruptcy.

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (b)(1), (4), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Pertinent provisions of section 20a of the Act are now covered by section 11301 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 716, 742, 743, 774, 851 of this title; title 11 App. section 1166.

§ 793. Omitted

CODIFICATION

Section, Pub. L. 93-236, title VI, § 603, Jan. 2, 1974, 87 Stat. 1023, which related to freight rates for recyclables, was restated in section 10710 of Title 49, Transportation, by Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1383.

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

Pub. L. 94-210, title II, § 204, Feb. 5, 1976, 90 Stat. 40, set out under this section in the main edition, providing for an investigation by the Interstate Commerce Commission of discriminatory freight rates for transportation of recyclable or recycled materials, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466.

CHAPTER 17—RAILROAD REVITALIZATION AND REGULATORY REFORM

SUBCHAPTER I—GENERAL PROVISIONS

§ 801. Declaration of policy

ACT REFERRED TO IN OTHER SECTIONS

The Railroad Revitalization and Regulatory Reform Act of 1976 is referred to in sections 562, 726, 741 of this title.

§ 802. Definitions

CODIFICATION

Section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), referred to in par. (7), was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation, and is now covered by section 10102 of Title 49.

SUBCHAPTER II—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

§ 821. Definitions

As used in this subchapter, the term—

[See main edition for text of (1)]

(2) "equipment" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features (except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978). General service railroad freight car includes a boxcar, gondola, opentop or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act;

[See main edition for text of (3) to (7)]

(As amended Pub. L. 95-620, title VIII, § 803(c)(1), Nov. 9, 1978, 92 Stat. 3347.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in par. (2), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

AMENDMENTS

1978—Par. (2). Pub. L. 95-620 inserted "(except as provided in section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" following "or other features".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

§ 822. The Rail Fund

[See main edition for text of (a)]

(b) Purpose

The purpose of the Fund is to provide capital which is necessary to furnish financial assistance to railroads, to the extend[1] of appropriated funds, for facilities maintenance, rehabilitation, improvements, and acquisitions, and such other financial needs as the Secretary approves, in accordance with this subchapter. Money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

[See main edition for text of (c) to (e)]

(f) Contents of fund

There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

[See main edition for text of (1) to (4)]

(5) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments;

(6) funds as may hereafter be appropriated to the Fund as authorized under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and

(7) any other receipts of the Fund.

[See main edition for text of (g) and (h)]

(i) Uses

Moneys in the Fund shall be utilized—

[See main edition for text of (1) to (3)]

(4) in such amounts as are provided in appropriation acts, to make payment of all expenses incurred by the Secretary in carrying out his duties with respect to the Fund,

(5) to make transfers to the general fund of the Treasury, and

(6) to carry out the purposes of section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978.

(As amended Pub. L. 95-620, title VIII, § 803(c)(2)-(4), Nov. 9, 1978, 92 Stat. 3347.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, referred to in subsecs. (b), (f)(6), and (i)(6), is section 803(a) and (b) of Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note below.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-620, § 803(c)(2), inserted provision requiring money appropriated to the Fund under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 be used for maintenance and acquisition of equipment and facilities for transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.

Subsec. (f). Pub. L. 95-620, § 803(c)(3), added par. (6) and redesignated former par. (6) as (7).

Subsec. (i)(6). Pub. L. 95-620, § 803(c)(4), added subsec. (i)(6).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

RAILROAD REHABILITATION FOR TRANSPORTATION OF COAL

Section 803(a) and (b) of Pub. L. 95-620 provided that:

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum.

"(b) AUTHORIZATION.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than $100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose)."

§ 825. Rehabilitation and improvement financing

[See main edition for text of (a)]

(b) Application and determination

[See main edition for text of (1)]

(2) The Secretary shall act upon each such application within 6 months after the date on which all required information is received, except as otherwise provided in subsection (a)(2) of this section. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination, the Secretary shall evaluate and consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed, and the railroad's rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission, (B) the interest of the public in supplementing such other funds as may be available in order to increase the total amount of funds available for railroad financing, and

[1] So in original. Probably should be "extent".

(C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs. Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services. With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services. The Secretary, in granting financial assistance to any applicant, shall assign the highest priority, among applications for assistance which would return equal public benefits, to applications for assistance for providing safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur.

[*See main edition for text of* (c)]

(d) Authorization

[*See main edition for text of* (1)]

(2) [*See main edition for text of* (A)]

(B) The Secretary, in order to provide financing pursuant to this section, may also purchase certificates issued under section 205(c)(3) of title 11, by a trustee of a railroad in reorganization and approved by the reorganization court, under such terms and conditions as may be approved by the Secretary and the reorganization court. In purchasing such trustee certificates or at any time thereafter, the Secretary may agree with the trustee of such railroad in reorganization, subject to the approval of the reorganization court, to exchange such certificates for redeemable preference shares issued, in accordance with the terms and conditions set forth in section 826 of this title, in connection with a plan of reorganization approved by the reorganization court. Except as provided in subparagraph (C) of this paragraph, no certificate shall be purchased under this section unless and until the Secretary makes a finding in writing that—

[*See main edition for text of* (i) *to* (iii)]

(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 205 of title 11, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term "senior debt" means—

(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 205 of title 11 and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.

(3) The total par value of the redeemable preference shares and the amount of trustee certificates which the Secretary may purchase from the proceeds received from the issuance and sale of Fund anticipation notes shall not exceed $700,000,000.

(e) Future purchases of redeemable preference shares

The total par value of the redeemable preference shares which the Secretary may, after September 30, 1979, make commitments to purchase under this subchapter, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 824 of this title, except that—

[*See main edition for text of* (1) *and* (2)]

(As amended Pub. L. 95–565, § 5, Nov. 1, 1978, 92 Stat. 2400; Pub. L. 95–607, title III, §§ 301(a), 302, Nov. 8, 1978, 92 Stat. 3066; Pub. L. 95–620, title VIII, § 803(c)(5), (6), Nov. 9, 1978, 92 Stat. 3347, 3348.)

REFERENCES IN TEXT

Section 803(a) and (b) of the Powerplant and Industrial Use Fuel Act of 1978, referred to in subsec. (b)(2), is section 803(a) and (b) of Pub. L. 95–620, Nov. 9, 1978, 92 Stat. 3347, which is set out as a note under section 822 of this title.

Section 205 of title 11, referred to in subsec. (d)(2), was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(b), 92 Stat. 2682, section 101 of which enacted Title 11, Bankruptcy.

AMENDMENTS

1978—Subsec. (b)(2). Pub. L. 95–620, § 803(c)(5), inserted provision that with respect to funds appropriated for financial assistance under this section as authorized by section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, application for such funds for coal transportation be deemed to be for the provision of essential freight.

Subsec. (d)(2). Pub. L. 95–607, § 302, inserted in subpar. (B), last sentence, the phrase "Except as provided in subparagraph (C) of this paragraph" and added subpar. (C).

Subsec. (d)(3). Pub. L. 95–620, § 803(c)(6), substituted "$700,000,000" for "$600,000,000" and "$150,000,000" for "$100,000,000".

Pub. L. 95–607, § 301(a)(1), struck out limitation that not more than $100,000,000 of the proceeds be used to purchase trustee certificates.

Pub. L. 95–565, § 5(a), struck out sentence providing that not more than $100,000,000 could be used to purchase trustee certificates.

Subsec. (e). Pub. L. 95–607, § 301(a)(2), substituted ", after September 30, 1979, make commitments to purchase under this subchapter" for "purchase under this subchapter after September 30, 1978".

Pub. L. 95–565, § 5(b), substituted "after September 30, 1979, make commitments to purchase under this subchapter" for "purchase under this subchapter after September 30, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-620 effective 180 days after Nov. 9, 1978, see section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of Title 42, The Public Health and Welfare.

CHICAGO, MILWAUKEE, AND SAINT PAUL RAILROAD ROADBED AND TRACK IMPROVEMENT LOANS

Section 303 of Pub. L. 95-607 provided: "The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement."

§ 827. Fund anticipation notes

(a) General

The Secretary shall, until September 30, 1979, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase Fund anticipation notes in an aggregate principal amount of not more than $600,000,000, in order to provide financial assistance to railroads for such financing needs as the Secretary approves.

[See main edition for text of (b) and (c)]

(d) Remittance and termination

If the Congress does not, on or before September 30, 1979, enact legislation of the type referred to in subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads which are held in the Fund, and the Fund shall thereupon terminate.

(As amended Pub. L. 95-607, title III, § 301(b), Nov. 8, 1978, 92 Stat. 3066.)

AMENDMENTS

1978—Subsecs. (a), (d). Pub. L. 95-607 substituted "1979" for "1978".

§ 829. Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed $600,000,000 and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to September 30, 1979, from the Secretary, out of such moneys in the Treasury as are appropriated under this sentence, Fund anticipation notes in such aggregate principal amounts, subject to the foregoing limitation, as the Secretary may so offer for sale. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after September 30, 1979, without prior approval thereof in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 1351(d) of title 31.

(As amended Pub. L. 95-607, title III, § 301(c), Nov. 8, 1978, 92 Stat. 3066.)

AMENDMENTS

1978—Pub. L. 95-607 substituted "September 30, 1979" for "March 31, 1979" following "time, prior to" and "prior to or after".

§ 830. Exemption

CODIFICATION

Section 20a of the Interstate Commerce Act (49 U.S.C. 20a), referred to in text, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted Title 49, Transportation, and is now covered by section 11301 of Title 49.

SUBCHAPTER III—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 601 of this title; title 49 section 1602.

§ 851. National Railroad Passenger Corporation

APPLICABILITY OF NATIONAL DEFENSE CONTRACT REQUIREMENTS TO IMPROVEMENT PROGRAM

Pub. L. 95-335, title I, § 101, Aug. 4, 1978, 92 Stat. 442, provided in part that: "Notwithstanding any other provisions of law, the provisions of Public Law 85-804 [section 1431 et seq. of Title 50, War and National Defense] shall apply to the Northeast Corridor Improvement Program".

§ 853. Required goals

The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals:

(1) Intercity rail passenger services—(A)(i) Within 5 years after February 5, 1976, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on at most a 3-hour-and-40-minute schedule, including appropriate intermediate stops; and regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on at most a 2-hour-and-40-minute schedule, including appropriate intermediate stops.

[See main edition for text of (ii)]

(B) The improvement of nonoperational portions of stations (as determined by the Secretary in consultation with the National Railroad Passenger Corporation) used in intercity rail passenger service and of related facilities and fencing. Fifty percent of the cost of such improvements shall be borne by States (or local or regional transportation authorities) or other responsible parties, except that the Secretary may, in his sole discretion, fund entirely any safety-related improvement.

[See main edition for text of (C) to (E)]

(2) Rail commuter services, rail rapid transit, and local transportation—(A) To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rail rapid transit, and local public transportation.

(B) Within one year after October 5, 1978, the submission by the Secretary to the Congress of a report on the conflict between the needs of commuter rail passenger service and the needs of intercity rail passenger service in

the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York.

[*See main edition for text of (3) and (4)*]

(5) Compatable[1] Equipment.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. Before purchasing such equipment with Federal financial assistance, the Corporation shall obtain the Secretary's concurrence that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1)(E) of this section.

(As amended Pub. L. 95–421, §§ 5, 8, Oct. 5, 1978, 92 Stat. 926, 927.)

AMENDMENTS

1978—Par. (1)(A)(i). Pub. L. 95–421, § 8(1), added "at most" preceding "a 3-hour-and-40-minute schedule" and "a 2-hour-and-40-minute schedule".

Par. (1)(B). Pub. L. 95–421, § 8(2), added "or other responsible parties" following "(or local or regional transportation authorities)".

Par. (2). Pub. L. 95–421, § 5, designated existing provisions as par. (2)(A) and added par. (2)(B).

Par. (5). Pub. L. 95–421, § 8(3), added par. (5).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 5, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 851, 854 of this title.

[1] So in original. Probably should be "Compatible".

§ 854. Funding

(a) Authorization of appropriations

There is authorized to be appropriated to the Secretary—

(1) $1,600,000,000 to remain available until expended in order to effectuate the goals of section 853(1)(A)(i) of this title and after such goals have been achieved, the goals of section 853(1)(A)(ii) of this title, of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this subchapter;

[*See main edition for text of (2) and (3); (b) to (g)*]

(As amended Pub. L. 95–421, § 9, Oct. 5, 1978, 92 Stat. 928.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1), (c), was in the original "this title" meaning title VII of Pub. L. 94–210, Feb. 5, 1976, 90 Stat. 119, as amended, which enacted this subchapter, and amended sections 543, 545, 546, 562 to 564, and 791 of this title, and section 1653 of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (f), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95–421 added provision making available not less than $27,000,000 to finance equipment modification and replacement as result of electrification conversion system of the Northeast Corridor.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–421 effective Oct. 1, 1978, see section 20 of Pub. L. 95–421, set out as an Effective Date of 1978 Amendment note under section 541 of this title.